

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 30, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05014

PROPOSAL: To allow the sale of alcoholic beverages for consumption both on and off the premises for Spikes Volleyball Beach, Bar and Grill.

CONCLUSION: The outdoor recreation use is a permitted use in the I-1 and does not require a special permit. This request applies only to the sale of alcohol, and complies with all applicable criteria for both a special permit for the sale of alcohol for consumption on the premises, and a special permit for the sale of alcohol for consumption off the premises. This proposed use has the potential to generate high noise volumes, with or without the presence of alcoholic beverages, but the City's noise ordinance is intended to deal with this issue. Additionally, the City Council retains the authority to revoke special permits for the sale of alcohol for consumption on and off the premises if the permittee does not take steps to prevent repeated disturbances.

RECOMMENDATION:

Conditional Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Fairfield Centre 4th Addition.

LOCATION: 2300 Judson Street

EXISTING ZONING: I-1 Industrial

EXISTING LAND USE: Outdoor Recreation under construction.

SURROUNDING LAND USE AND ZONING:

North:	Commercial/Industrial	I-1
South:	Vacant	I-1
East:	Vacant	I-1
West:	Commercial/Industrial	I-1

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area.

HISTORY: September 27, 2004 - The final plat of Fairfield Centre 4th Addition was approved.

January 19, 1994 - The Fairfield Centre Addition preliminary plat was approved.

1979 - The zoning was changed from K - Industrial to I-1 Industrial with the 1979 zoning update.

BACKGROUND: This request is to allow the sale of alcohol for consumption both on and off the premises at Spikes Volleyball Beach, Bar & Grill. The site plan shows 12 outdoor volleyball courts, a 24,227 square foot building with 4 indoor courts, and 295 off-street parking spaces. The applicant notes the hours of outdoor volleyball will be Monday through Friday, 6:00 p.m. to midnight, and from 8:00 a.m. to midnight on Saturday and Sunday. In addition to regular league play, tournaments hosting approximately 60 teams are anticipated. Alcohol will be served all hours the facility is open. Separate permits for on and off-sale allow alcohol to both be consumed anywhere within the area designated as the "licensed premises", and to be sold as package take-out for consumption off the premises. The licensed premises is defined as all of Lot 1, Fairfield Centre 4th Addition.

The outdoor recreation component is a permitted use in the I-1 district. This request is only for on and off-sale alcohol, both of which require special permits per LMC Sections 27.63.680 and 685. The provisions for special permits require that separate special permits be granted for each on and off-sale use, recognizing the fact that the parking requirements of each permit are different and must be reviewed independently. This report contains the reviews of the conditions for both special permits.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

The special permits for on and off-sale alcohol contain different parking requirements. On-sale requires that parking be provided at 1 space per 100 square feet of floor area, which is also the standard for restaurants. Off-sale requires parking in compliance with the appropriate section of the parking ordinance, which is often times a reduced standard when compared to 1/100. However, this case is somewhat unique. The building and safety Department has determined that this use must provide enough parking spaces for both the indoor facility at 1/100, plus provide 4 spaces per outdoor court. The number of required spaces is 243 for the building and 48 for the outdoor courts, for a total 291 spaces. The site plan shows 295 parking spaces.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

The issuance of a separate special permit to allow the sale of alcohol for consumption off the premise has also been requested and is included in the second half of this report.

(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).

The applicant prepared an exhibit showing the separation from the premises to the nearest residential to the northwest and west. Staff confirmed the measurements as approximately 270' to the R-2 to the northwest, and approximately 750' to the R-2 to the west. In both cases there are intervening lands zoned I-1 and developed with industrial and commercial uses. There is no daycare, park, church, state mental health institution, or a residential district within 100' of the proposed use.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

Both outdoor lighting and parking lot lighting is regulated by City of Lincoln Design Standards. Chapter 3.45 - Design Standards for Parking Lots contains the standards for parking lot lighting. Chapter 3.55 - Design Standards for Recreational Facilities Section 5 - Outdoor Recreational Lighting contains the standards for lighting associated with all outdoor recreation facilities. The design standards for outdoor recreational facilities require that no outdoor facility be illuminated after 12:00 midnight. Compliance with these standards is reviewed at the time of building permits and is mandatory regardless of whether alcohol is consumed on the premises or not.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

The application states that a public address system will be installed for the outdoor courts with pole-mounted speakers. There is concern that these speakers combined with outdoor activities may create a nuisance for the nearby residential areas. The Health Department notes in their review that the applicant should become familiar with noise standards contained in LMC Chapter 8.24. These standards apply to this use, and sound levels will be regulated based upon the zoning of the receiving land use. That is to say, the noise standard for this use at the R-2 boundary will be that for residential zones (not industrial or commercial zones), which is 65 dB(A) from 7:00 a.m. to 10:00 p.m., and 55 dB(A) from 10:00 p.m. to 7:00 a.m. The noise standard applies regardless of whether alcohol is allowed or not.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 270' away from the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the premises is from Judson Street which is not considered a "residential street" at this location.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

2. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

As noted in section 1(a) above, LMC requires off-street parking for both the building and the outdoor volleyball courts. The standard is as follows: 1 space per 100 square feet of floor area, or 243 spaces for the building; and, four spaces per outdoor court or 48 spaces, for a total of 291 spaces. The site plan shows 295 spaces, four more than the number required.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.

This application is for a special permit to allow the sale of alcohol for consumption off the premises. A separate special for the sale of alcoholic beverages for consumption on the premises is also being requested and is part of this review.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district.

The applicant prepared an exhibit showing the separation from the premises to the nearest residential to the northwest and west. Staff confirmed the measurements as approximately 270' to the R-2 to the northwest, and approximately 750' to the R-2 to the west. In both cases there are intervening lands zoned I-1 and developed with industrial and commercial uses. There is no daycare, park, church, state mental health institution, or a residential district within 100' of the proposed use.

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- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

3. One of the concerns is the noise that will be generated by the recreational activities. As noted previously, the City's noise ordinance can be enforced on this property.

4. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works had no objection to this request.

CONDITIONS:

Site Specific:

1. This approval is for special permits for the sale of alcohol for consumption on and off the premises as designated on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
 - 2.1.1 Submit six copies of a revised site plan that includes the following:
 - 2.1.1.1 Clearly delineates and notes the boundary of Lot 1 as the premises.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before the sale of alcohol for consumption on and off the premises, all development and construction is to comply with the approved plans.
 - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however,

said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov

Planner

March 16, 2005

OWNER: BEGI, LLC
1609 N Street
Lincoln, NE 68508
(402) 474-3000

**APPLICANT/
CONTACT:** Dave Sutko
5210 NW 7th Street
Lincoln, NE 68521
(402) 770-2227



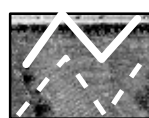
2002 aerial

Special Permit #05014 2300 Judson St.

Zoning:

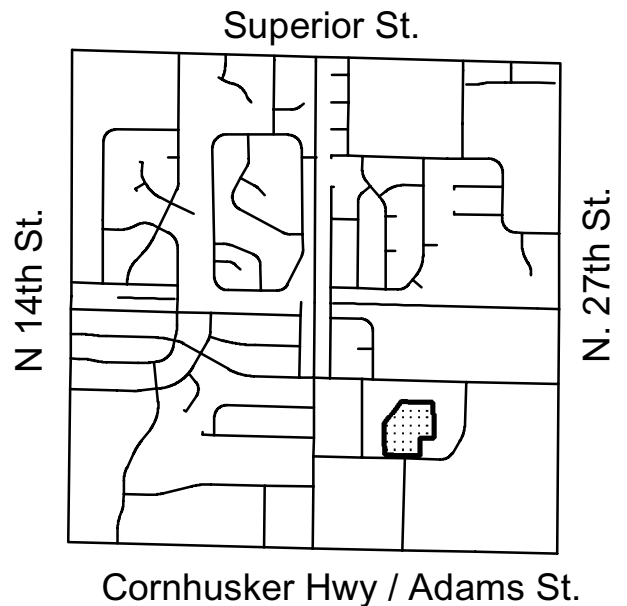
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

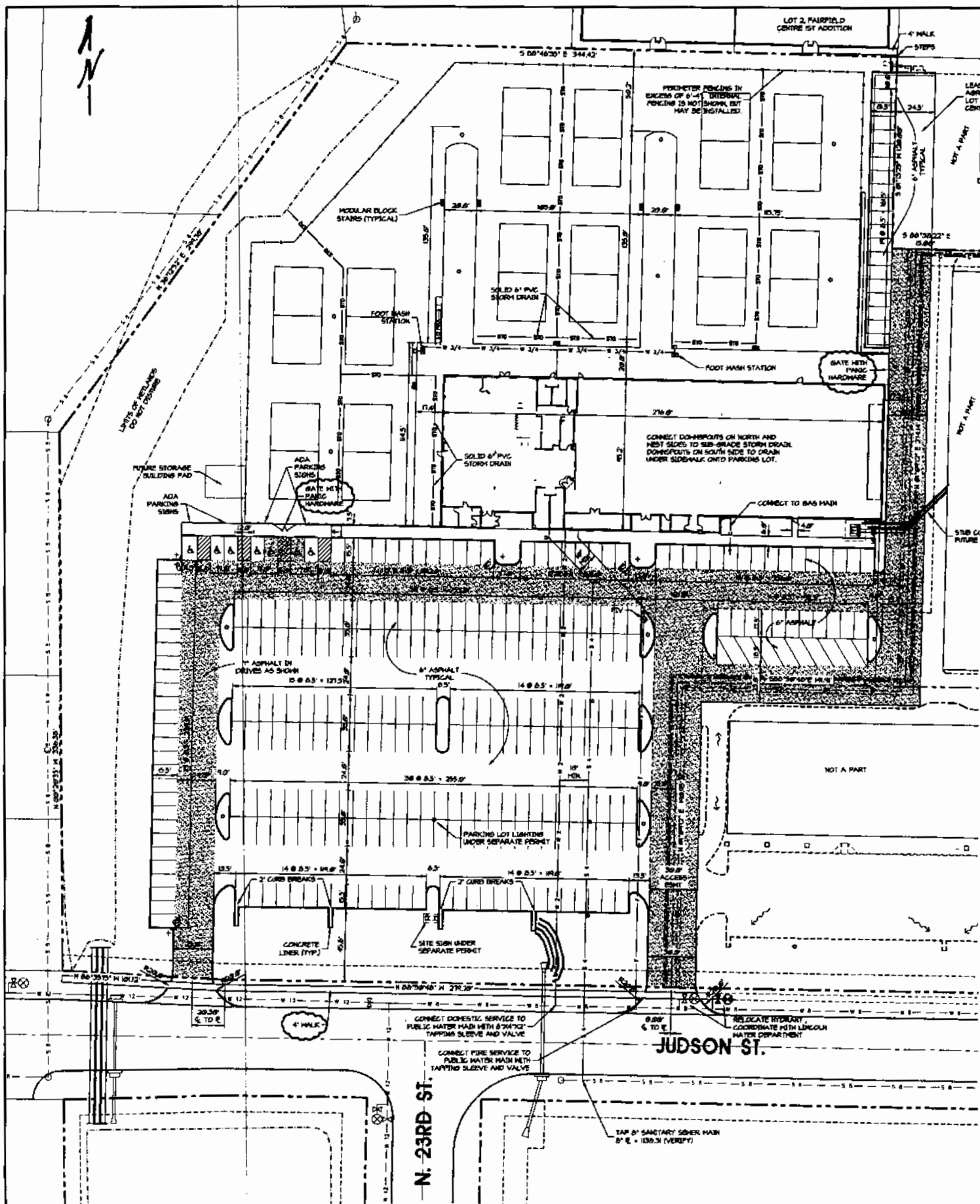
One Square Mile
Sec. 12 T10N R6E

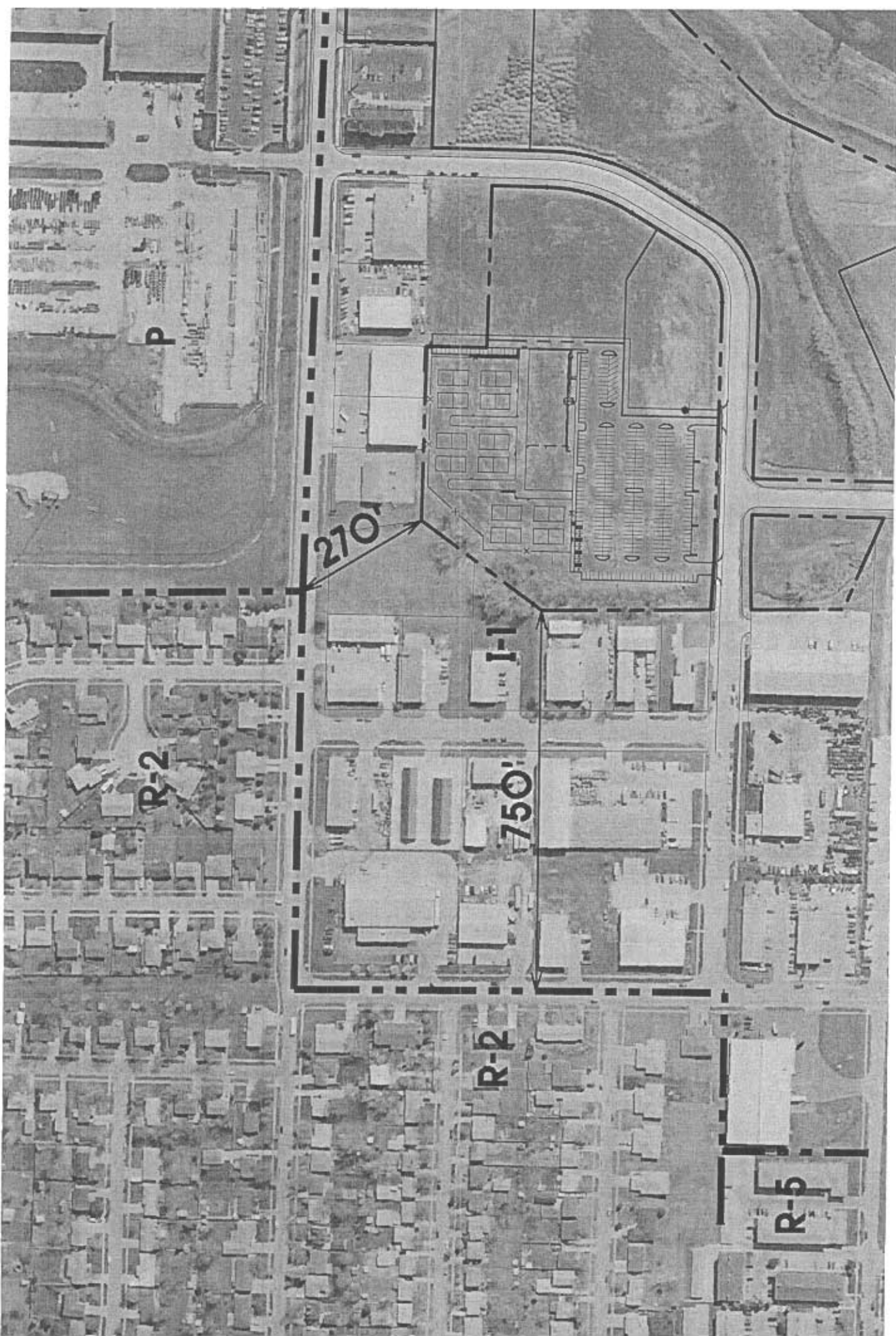


Zoning Jurisdiction Lines

City Limit Jurisdiction








DESIGN ASSOCIATES
 PERSHING SQUARE
 1609 "N" STREET
 LINCOLN, NEBRASKA 68508
 voice: 402/474-3000
 fax: 402/474-4045
 dtaassoc@nebraska.com
 OF LINCOLN, INC

SPIKE'S BEACH BAR AND GRILL

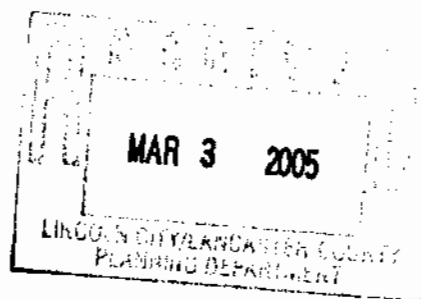


SCALE: 1" = 250'



March 3, 2005

Marvin Krout
City/County Planning Department
555 South 10th Street
Lincoln, Nebraska 68508



RE: Special Permit
On and Off Sale of Alcoholic Beverages
2300 Judson Street

Mr. Krout,

On behalf of Sekips, Inc. dba Spikes Beach, Bar and Grill (Spikes), the following is offered as supplemental information to the attached application for Special Permit for on and off sale alcoholic beverages in compliance with Sections 27.63.680 and 27.63.685 of the Lincoln Municipal Code.

Sekips, Inc. is a for-profit corporation organized under the laws of the State of Nebraska, that is the owner of the former McCormack's Volleyball Beach. My acquisition of the Lincoln McCormack's league came after nine years of employment with McCormack's where I was the regional manager and directly responsible for management of the two Lincoln facilities located adjacent to the former Prospector restaurant and lounge and at State Fair Park.

The goal of Spikes is to continue to provide a family atmosphere where recreational volleyball players from Lincoln and surrounding areas can bring their families for an outing of exercise, fun, and friends. Our business is open to the public. Use of the sixteen courts is reserved for league play with pre-payment of league membership dues. The league schedule generally runs from Sunday evening through Friday evening with Saturdays and Sundays reserved for tournament play. Our anticipated hours of volleyball activities are: Monday through Friday 6:00 P.M. to Midnight and 8:00 A.M. to Midnight on Saturday and Sunday. The restaurant and bar are expected to open for lunches with operation continuing through to the closing of the courts.

In addition to our once-per-week leagues, we host regional/national tournaments having approximately 60 teams and state tournaments having approximately 40 teams. Spikes has also hosted 90% of the outdoor volleyball games played at the Nebraska State Games since 2000. Our new facility is

P.O. Box 30349

Lincoln, NE 68503-0349

ph. 402.477.1175

fax 402.477.1175

www.spikesvb.com



expected to build on the current success of volleyball at the State Games where volleyball is the number one participated sport.

P.O. Box 30349

Our new facility is located on the north side of Judson Street at 23rd Street and is centrally located in an area that is zoned I-1. Our site provides a separation of 270 feet from the closest residential zoning district that is located on the north side of Fairfield Street east of 22nd Street. The area between Spikes and the residential district is also zoned industrial. This area is the home of commercial users and a medical office. Access to the site is from Judson Street, east and west of 23rd Street.

Lincoln, NE 68503-0349

"Spikes" is designed with 12 exterior and 4 indoor volleyball courts. Final design of the court lighting will be 'design standard' compliant. A public address system will be installed for the outdoor courts with pole mount speakers located well beyond the minimum 150' separation from our residential neighbors to the north.

ph. 402.477.1175

Review of the parking requirements for the zoning district shows that 243 stalls are required for the 24,227 square feet in the building, based upon 1 stall per 100 square feet of building, plus 4 stalls for each of the 12 courts or at total of 291 required parking stalls. The attached site plan, as approved with the building permit, shows 295 parking stalls, an excess of 48 stalls as required with the requested special permit.

We have spend countless hours of preparation in the design of the new Spikes to ensure quality for our users, our neighbors and the community. It is our goal to continue to be a volleyball business first and a food and beverage service second.

fax 402.477.1175

Thank you in advance for your favorable consideration. Please advise if additional information is desired.

Sincerely,

David Sutko, President
Sekips, Inc dba Spikes Beach, Bar and Grill

Memorandum

To:	Brian Will, Planning Department
From:	Charles W. Baker, Public Works and Utilities
Subject:	Spikes Beach Bar and Grill Special Permit #05014 for Alcohol Sales
Date:	March 15, 2005
cc:	Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Spikes Beach Bar and Grill Special Permit #05014 for Alcohol Sales located at North 23rd and Fairfield/Judson area. Public Works has no objection. The parking layout meets design standards with parking stall count exceeding the requirement.



MICHAEL WOOLMAN
<lpd737@CJIS.CI.LINC
OLN.NE.US>

03/19/2005 01:07 PM

To: Brian Will <BWill@ci.lincoln.ne.us>
cc:
Subject: Spikes Beach Bar and Grill SP05014

Mr. Will,

The Lincoln Police Department does not object to the Spikes Beach Bar and Grill Alcohol Sales Special Permit.

Sergeant Michael Woolman
Lincoln Police Department

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will	DATE: March 18, 2005
DEPARTMENT: Planning	FROM: Chris Schroeder
ATTENTION:	DEPARTMENT: Health
CARBONS TO: EH File EH Administration	SUBJECT: Spikes Beach Bar & Grill SP #05014 Alcohol Sales

The Lincoln-Lancaster County Health Department has reviewed the alcohol sales special permit application with the following noted:

- The LLCHD notes that R-2 zoning is located approximately 1000 feet to the northwest from this proposed establishment and advises that noise pollution can be concern locating certain types of establishments near residential zoning. The LLCHD strongly encourages the applicant to become familiar with Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance. This ordinance addresses noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. LMC 8.24 provides that for residential zones, noise based upon a ten minute LEQ must not exceed 65 dB(A) from 7:00 am to 10:00 pm and 55 dB(A) from 10:00 pm to 7:00.